

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:       K. C. Lam Living Trust                                 )  
              Ward 075, Block 058, Parcel 00002C         ) Shelby County  
              Commercial Property                                 )  
              Tax Year 2006   )

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$47,400	\$540,400	\$587,800	\$235,120

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on July 11, 2007 in Memphis, Tennessee. In attendance at the hearing were K. C. Lam, the appellant, and Shelby County Property Assessor's representatives John Zelinka, Esq. and staff appraiser Chris Elion.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a retail market located at 3135 New Horn Lake in Memphis, Tennessee.

The parties stipulated to a value of \$250,000 if it is determined that the State Board of Equalization has jurisdiction in this matter. The jurisdictional issue arises from the fact that the disputed appraisal was not appealed to the Shelby County Board of Equalization.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of



them. It was not the intent of the ‘reasonable cause’ provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer’s control.

*Associated Pipeline Contractors, Inc.* (Williamson County, Tax Year 1992). *See also John Orovets* (Assessment Appeals Commission, Cheatham County, Tax Year 1991). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Shelby County Board of Equalization.

The taxpayer testified that he contacted the assessor’s office concerning the appraisal immediately following his January 23, 2006 purchase of subject property for \$250,000. According to Mr. Lam, he was advised that he had to receive a tax bill before he could appeal. Accordingly, Mr. Lam waited until July of 2006 to appeal after receiving his City of Memphis tax bill. At that time, Mr. Lam was advised it was too late to appeal.

The administrative judge finds the taxpayer established reasonable cause for not appealing to the Shelby County Board of Equalization. The administrative judge finds Mr. Lam was either provided with erroneous information or did everything a taxpayer could reasonably be expected to do as a prudent business person. *See* Tenn. Code Ann. § 67-1-803(d)(2) which addresses the grounds for the Commissioner of Revenue to waive delinquency penalties. The administrative judge finds that although Tenn. Code Ann. § 67-1-803 is not applicable to the State Board of Equalization, it constitutes persuasive authority insofar as the issue of reasonable cause is concerned.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$47,400	\$202,600	\$250,000	\$100,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of

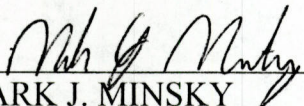


Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 26th day of July, 2007.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. K. C. Lam  
Tameaka Stanton-Riley, Appeals Manager